

REMARKS

With the foregoing amendment claims 1-6 and 21-45 are pending in the application. Claims 1, 26 and 35 are in independent form. Applicant respectfully requests reconsideration of the Rejections/Objections, which are discussed below.

Rejection Under 35 U.S.C. § 102(b)

All claims stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bullard (US 5,665,052). Applicant respectfully disagrees.

Claim 1

With respect to Claim 1, claim 1 is not anticipated by Bullard because Bullard does not disclose all of the features of claim 1. For example, at the least, Bullard does not disclose “a second guide tube secured to said upper surface of said elongated blade adjacent said first guide tube,” as is required by claim 1 (emphasis added). In contrast, Bullard teaches placing a tube inside of another tube so that the other tube surrounds the first tube (i.e., Bullard does not disclose placing the tubes so that they are adjacent). *See e.g., Bullard, Figure 1 and Col. 4, lines 50-51.* Applicant respectfully submits that a first tube that is inside a second tube is not “adjacent” to the second tube, and the second tube, which surrounds the first tube is not “adjacent” to the first tube, as that term is properly construed.

As the specification indicates, the term “adjacent” means “neighboring,” “bordering,” or “side-by-side.” For example, figure 1 of the present application clearly shows the tubes to be “bordering” or “side-by-side” each other.

Moreover, the ordinary definition of “adjacent” is consistent with the specification. *See e.g., the Random House Unabridged Dictionary* (defining adjacent to mean “neighboring ... just before, after, or facing: a map on an adjacent page”); *Webster's Third New International Dictionary, Unabridged. Merriam-Webster, 2002.* <http://unabridged.merriam-webster.com> (defining adjacent to mean “abutting ... immediately preceding or following”); and *Dictionary.com. WordNet® 2.0, Princeton University.* <http://dictionary.reference.com/browse/adjacent> (defining adjacent to mean

“side by side”). Accordingly, there is nothing in the specification or ordinary meaning to indicate that “adjacent” should be interpreted to mean, among other things, “inside of” or “surrounding.”

Thus, claim 1 does not read on the device disclosed in Bullard because Bullard discloses a device wherein a first tube is placed inside of a second tube (i.e., the second tube surrounds the first tube), rather than being disposed so that the two tubes are adjacent. Applicant, therefore respectfully submits that Bullard does not anticipate claim 1.

Claims 2-6 and 21-25

With respect to claims 2-6 and 21-25, these claims depend from claim 1. Thus, the above remarks for claim 1 apply to claims 2-6 and 21-25.

Claims 2 and 28

Claim 2 depends from claim 1 and, thus, is patentable for at least the same reasons given above. Further, claims 2 and 28 require “said first guide tube is substantially straight and said second guide tube is curved.” The Office contends that Bullard teaches this in Figure 1. Applicant respectfully submits that Figure 1 depicts two devices with the same curvature. Further, Bullard specifies that all three devices have the same curvature because each fits inside another. *Bullard, col. 4, lines 49-52*. The devices depicted in Figure 1 do not appear to be substantially straight. Applicant, therefore, respectfully requests that the rejections of Claims 2 and 28 be withdrawn.

Claims 6 and 34

Claims 6 and 34 require “wherein said first and second guide tubes are oriented at different angles of attack with respect to said elongated blade” As discussed above, Bullard teaches that all three devices must be inside each other. Thus, they must share a single angle of attack. In the abstract, Bullard explains that this places all three devices in one desired location. *See Abstract* (“A guide member is passed through the interior of the stylet and advanced through the patient's vocal cords into the trachea. The endotracheal tube is then advanced along the guide member until it is established in a desired location

in the patient's trachea to permit ventilation of the patient"). Applicant, therefore, respectfully requests that the rejections of Claims 6 and 34 be withdrawn.

Claim 26

Claim 26 recites "a first guide means for guiding a first aspiration tube to a patient's laryngeal gutter, said first guide means being secured to said upper surface of said elongated blade; and

a second guide means for guiding a second aspiration tube to a patient's glottic aperture, said second guide means being secured to said upper surface of said elongated blade."

Bullard does not teach all of the features of claim 26. Claim 26 requires two guide means and two aspiration tubes for a total of four elements. Bullard teaches a stylet 60, a flexible guide member 66 and one endotracheal tube 68, for a total of three elements. Since 3 does not equal 4, Bullard does not anticipate. Applicant, therefore, respectfully requests that the rejection of Claim 26 be withdrawn.

Claims 37-34

With respect to claims 27-34, these claims depend from claim 26. Thus, the above remarks for claim 26 apply to claims 27-34.

New Claims


New claims 35-45 are added. Claim 35 is independent and claims 36-45 depend from claim 35. Support for new claim 35 can be found at, for example, Figure 1 and the description thereof.

New claim 35 is patentable over Bullard because claim 35 requires two guide tubes, wherein "the first guide tube is not disposed within the second guide tube and the second guide tube is not disposed within the first guide tube." Bullard does not disclose this feature. As discussed above, Bullard discloses the exact opposite of this feature. That is, Bullard discloses two tubes and further discloses disposing one of the tubes inside of the other. Thus, claims 35-45 are not anticipated by Bullard.

CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections, and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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